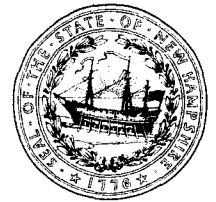




The State of New Hampshire  
***Department of Environmental Services***



**Michael P. Nolin**  
Commissioner

Matthew and Melissa Arel  
110 N. Mason Road  
Brookline, NH 03033

Re: Septic Approval CA2001032485

**ADMINISTRATIVE ORDER**  
**No. WD 05-012**

April 26, 2005

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to Matthew and Melissa Arel pursuant to RSA 485-A:42, I. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. Matthew and Melissa Arel are individuals having a mailing address of 110 North Mason Road, Brookline, NH 03033.

**C. STATEMENTS OF FACTS AND LAW**

1. RSA 485-A:29-44 authorizes DES to regulate the subdivision of land and the construction, maintenance, and repair/replacement of individual sewage disposal systems ("septic systems"). Pursuant to rulemaking authority conferred therein, the Commissioner of DES has adopted Env-Ws 1000 to implement this program.
2. Mr. and Mrs. Arel are the owners of the property located at 110 North Mason Road, Brookline, NH 03303 ("the Property").
3. DES issued Construction Approval CA2001032485 to the Arels on February 22, 2001.
4. RSA 485-A:29, I and Env-Ws 1004.06(a) require that an approved septic system be inspected by DES before the system is covered and placed in operation.
5. On October 5, 2001, DES personnel inspected the septic system at the Property. This inspection was performed upon receipt of information from the Brookline health officer that a notice to backfill the system had been submitted by the Arels.

6. The Notice to Backfill had been significantly altered. The form submitted is not considered an operational approval by DES.
7. The notice contained the wrong construction approval number, contained the name of a licensed septic installer who had not worked on the system, and showed the signature of the DES inspector and a date which later proved to have been copied from another form.
8. On November 5, 2001, DES issued a letter to Mr. Arel notifying him of the problems with the Notice to Backfill document, and requesting that Mr. Arel contact DES to discuss the matter. Mr. Arel has failed to contact DES.
9. On March 7, 2002, DES issued Notice of Proposed Fine AF 02-11 to Matthew and Melissa Arel. The fine sought was \$6,000.
10. Following payment of the fine, DES reminded Mr. Arel that he still needed to uncover his septic system for final inspection before DES could grant operational approval for the system.
11. As of February 22, 2005, the construction approval granted to Mr. and Mrs. Arel expired. Env-Ws 1004.10(a).
12. As of April 5, 2005, Mr. Arel had not contacted DES for a final inspection of the septic system on the Property.

#### **D. DETERMINATION OF VIOLATIONS**

1. Matthew Arel has violated RSA 485-A:29, I by failing to request a final inspection of a septic system by DES personnel prior to covering the system.
2. Matthew Arel has violated RSA 485-A:29, I by covering a septic system without receiving final approval of the system from DES.
3. Matthew Arel has violated RSA 485-A:43, I by knowingly submitting false and misleading information to DES in connection with an application for approval of a septic system.

#### **E. ORDER**

Based on the above findings, DES hereby orders Matthew and Melissa Arel as follows:

1. Within 30 days of receipt of the Order, apply to DES for an extension of CA2001032485, pursuant to Env-Ws 1004.10(b); or
2. If DES extends the expiration date of CA2001032485, then not later than May 15, 2005, Matthew and Melissa Arel must uncover the septic system installed on the Property pursuant to

CA2001032485, call DES for an inspection, and have the system inspected and approved by DES so that DES may issue an operational approval for the Property.

3. If DES has not received a request to extend CA2001032485 within 30 days of receipt of the Order, Matthew and Melissa Arel must file a new application for construction approval for the septic system located on the Property
4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Richard J. de Seve, Compliance Supervisor, Subsurface Systems Bureau  
DES Water Division  
P.O. Box 95  
Concord, NH 03302-0095  
Fax: (603) 271-6683  
e-mail: [rdeseve@des.state.nh.us](mailto:rdeseve@des.state.nh.us)

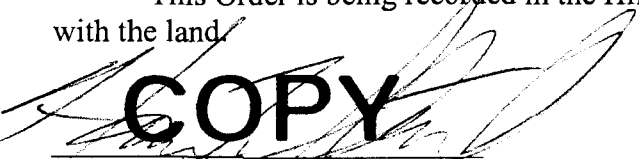
#### F. APPEAL


Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve the Arels of the obligation to comply with the Order.

#### G. OTHER PROVISIONS

Please note that RSA 485-A:43 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself.

This Order is being recorded in the Hillsborough County Registry of Deeds so as to run with the land.

  
**COPY**  
Harry T. Stewart, P.E., Director  
Water Division

  
**COPY**  
Michael P. Nolin, Commissioner  
Department of Environmental Services

**Certified Mail/RRR: 7099 3400 0002 9773 0796**

cc: Gretchen R. Hamel, Legal Unit Administrator ✓  
Public Information Officer, DES PIP Office  
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB  
Town of Brookline Board of Selectmen  
N. Orgeddes, Building Inspector, Town of Brookline  
Hillsborough County Registry of Deeds